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Attorneys for Plaintiff Drema June Ashley

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE:
Bard IVC Filters Products Liability Litigation

No. MD-15-02641-PHX-DGC

This Document Relates to:
Drema June Ashley
v. Bard Peripheral Vascular, Inc.

Motion to Substitute Party Plaintiff

Case No: 2:17-cv-01619-DGC

Counsel, pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, moves this Court for an Order substituting Larry Joe Prather, Sr., the Executor of the Estate of Drema June Ashley, as Plaintiff in this civil action.

1. Plaintiff Drema June Ashley filed this products liability action against Defendants on May 26, 2017 in the District of Arizona.
2. Plaintiff Drema June Ashley passed away on July 8, 2017. A Suggestion of Death was filed on September 25, 2017 (Document Number 3).
3. Under West Virginia law, the claim of Drema June Ashley survives to her personal representative. W.Va. Code Ann. § 55-7-8a(b) (2017).

4. On August 28, 2017, the Probate Court for Fayette County, West Virginia appointed Larry Joe Prather, Sr. as Executor of the Estate of Drema June Ashley. A copy of the Letter of Administration is attached as Exhibit “A”.

5. Larry Joe Prather is the proper party to substitute for Plaintiff-Decedent Drema June Ashley and has the proper capacity to move forward with the surviving products liability lawsuit on her behalf pursuant to Fed. R. Civ. P. 25(a)(1). “If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative.”

For the reasons set forth above, Larry Joe Prather requests that this Court grant his request for substitution and enter an order substituting Larry Joe Prather, Sr., Executor of the Estate of Drema June Ashley, deceased, as the named Plaintiff in this case.

Respectfully submitted,

/s/ John C. Duane

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on October 16, 2017, by operation of the Court's Electronic Case Filing System, on counsel of record in case number 2:17-cv-01619-DGC.

Respectfully submitted,

/s/ John C. Duane
Signature